

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Telephone Number Portability)	CC Docket No. 95-116
)	

To: The Commission

**COMMENTS OF NEXTEL COMMUNICATIONS ON
PETITION FOR DECLARATORY RULING OF THE
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

Pursuant to the January 27, 2003 Public Notice of the Federal Communications Commission (“Commission”),¹ Nextel Communications (“Nextel”) respectfully submits these Comments in support of the Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association (“CTIA”) that the Commission clarify the continued questions surrounding “intermodal” porting.²

As a provider of Commercial Mobile Radio Services (“CMRS”) subject to the Commission’s Wireless Number Portability (“WNP”) mandate, Nextel is devoting substantial resources to the operational, technical and administrative changes necessitated by the current November 24, 2003 WNP implementation date. Nextel is making this investment of time, money and resources despite continued questions regarding the legality of the Commission’s decision to impose a portability requirement on wireless

¹ Public Notice, “Comment Sought on CTIA Petition for Declaratory Ruling That Wireline Carriers Must Provide Portability to Wireless Carriers Operating Within Their Service Areas,” DA 03-211, released January 27, 2003.

² Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association, CC Docket No. 95-116, filed January 23, 2003 (“Petition”).

carriers.³ Setting aside these important legal questions for purposes of commenting on the narrow, yet important, issue raised in this proceeding, Nextel herein supports the CTIA Petition. If WNP must be implemented, the Commission cannot allow it to begin without clarifying that wireline carriers must port to wireless carriers, with overlapping service areas, anywhere within the wireless carrier's local service area – a porting capability that goes to the very heart of the Commission's reasons for mandating WNP in the first place.

As CTIA describes in its Petition, the issue of “intermodal” porting, *i.e.*, porting between wireless and wireline carriers, has been raised to the Commission on numerous occasions since 1998;⁴ yet, with WNP deployment only months away, the Commission has failed to resolve this issue. Specifically, the Commission has been asked to answer the policy question raised by the fact that wireline and wireless networks have developed using very different rate structures. Wireless carriers have deployed networks and services that provide consumers local calling areas wholly unrelated to the rate center structure used by the Local Exchange Carrier (“LEC”) industry; yet, wireline carriers insist that their obligation to port to wireless carriers is limited by those rate centers. In other words, the wireline industry argues that its obligation to port to a wireless carrier is limited to those geographic areas where a wireless carrier has a Mobile Switching Center or an NXX code opened within the LEC's rate center. The perverse – and, more importantly, anticompetitive – result of the LEC industry's position is: current wireline customers in only 1/7 of all wireless service areas would have the option of porting their

³ Cellular Telecommunications & Internet Association and Cellco Partnership, d/b/a Verizon Wireless v. FCC, No. 02-1264 (D.C.Cir.).

⁴ Petition at pp. 7-10.

wireline number to a wireless carrier.⁵ In other words, LECs could continue to protect nearly 85% of their customer base from the possibility of substituting wireless service for wireline service.

As CTIA states in its Petition, an important justification for the Commission's decision to impose portability obligations on wireless carriers, despite the lack of clear mandate from Congress, has been its potential to enhance competition between wireless and wireline carriers. A consumer's ability to move from wireline to wireless without changing telephone numbers, according to the Commission, would provide additional choices for wireline consumers and thereby drive increased competition between the two telecommunications industry segments.⁶ Yet, if the Commission allows wireline carriers to substantially restrict their wireless porting obligations as they currently propose, wireless carriers will be forced to spend hundreds of millions of dollars to reach only 15% of the wireline customer base. The result would be substantial dilution of the Commission's goal to enhance wireline-wireless competition by leaving the vast majority of wireline customers with few, if any, alternatives to their current service provider.

For these reasons, Nextel supports CTIA's request for a Declaratory Ruling that wireline carriers are required to "provide wireline-wireless portability within wireless service areas without regard to whether the wireless carrier has other numbers in a particular rate center."⁷ If a wireline customer requests to port his/her number to a wireless carriers operating in that same geographic area, the Commission's pro-

⁵ *Id.* at p. 6.

⁶ *Id.* at pp. 12-16 describing the numerous times the Commission has stated its intention to enhance wireline-wireless competition through number portability.

⁷ *Id.* at p. 17.

competitive goals are only achieved if the wireline carrier is required to fulfill that port request. Given that there are no technological impediments to achieving this local port request, the public policy benefits of increased choice and competition for wireline consumers requires the Commission to grant CTIA's Petition. The wireless industry continues to grow more and more competitive even without the availability of WNP; therefore, wireless carriers' investment in WNP, which as CTIA points out has never been economically justified by the Commission,⁸ cannot be supported solely on wireless-to-wireless competition.

Therefore, if the Commission continues to believe WNP is in the public interest and legally supportable, it must grant CTIA's Petition and clarify the porting obligation of wireline carriers. Nextel agrees that the Commission has created consumer expectations regarding their future flexibility to port telephone numbers among carriers. Only by porting freely among local wireline and wireless service providers will consumers experience the competitive benefits envisioned by the Commission.

⁸ *Id.* at p. 16.

Moreover, this clarification must be provided well in advance of WNP deployment so wireline and wireless carriers can make the necessary system/operational changes and develop appropriate business strategies to meet the expectations of their customers.

Respectfully submitted,

By, _____/s/_____

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